

Senate Bill No. 440

CHAPTER 877

An act to amend Sections 1299.7 and 1299.9 of the Code of Civil Procedure, relating to public employment relations.

[Approved by Governor October 12, 2003. Filed
with Secretary of State October 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 440, Burton. Employer-employee relations: law enforcement officers and firefighters.

Existing law provides that if an impasse has been declared after the representatives of an employing county, city, city and county, special district, or other political subdivision of the state and representatives of firefighters or law enforcement officers have exhausted their mutual efforts to reach agreement over economic issues as defined within the scope of arbitration and the parties are unable to agree to the appointment of a mediator or the mediator is unable to effect a settlement, the employee organization may request, by written notification to the employer, that their differences be submitted to an arbitration panel, as specified. Existing law provides that after specified procedures are followed the arbitration panel's decision is binding upon the parties. Existing law also provides that these provisions do not apply to an employer that is a city, county, or city and county governed by a charter that was amended prior to January 1, 2001, to incorporate a procedure requiring the submission of all unresolved disputes relating to wages, hours, and other terms and conditions of employment within the scope of arbitration to an impartial and neutral 3rd party for final and binding determination. The California Supreme Court has held that law unconstitutional in *County of Riverside v. Superior Court*.

This bill would instead provide that the governing body of the employer agency may, by unanimous vote, reject the decision of the arbitration panel, except as specifically provided to the contrary in a city, county, or city and county charter with respect to the rejection of an arbitration award. This bill would also provide that these provisions do not apply to a city, county, or city and county employer governed by a charter for that respective entity that was amended prior to January 1, 2004, to incorporate such a procedure.

The people of the State of California do enact as follows:

SECTION 1. Section 1299.7 of the Code of Civil Procedure is amended to read:

1299.7. (a) The arbitration panel shall mail or otherwise deliver a copy of the decision to the parties. However, the decision of the arbitration panel shall not be publicly disclosed, and shall not be binding, for a period of five days after service to the parties. During that five-day period, the parties may meet privately, attempt to resolve their differences and, by mutual agreement, amend or modify the decision of the arbitration panel.

(b) At the conclusion of the five-day period, which may be extended by the parties, the arbitration panel's decision, as may be amended or modified by the parties pursuant to subdivision (a), shall be publicly disclosed and, unless the governing body acts in accordance with subdivision (c), shall be binding on all parties, and, if specified by the arbitration panel, be incorporated into and made a part of any existing memorandum of understanding as defined in Section 3505.1 of the Government Code.

(c) The employer may by unanimous vote of all the members of the governing body reject the decision of the arbitration panel, except as specifically provided to the contrary in a city, county, or city and county charter with respect to the rejection of an arbitration award.

SEC. 2. Section 1299.9 of the Code of Civil Procedure is amended to read:

1299.9. (a) The provisions of this title shall not apply to any employer that is a city, county, or city and county, governed by a charter that was amended prior to January 1, 2004, to incorporate a procedure requiring the submission of all unresolved disputes relating to wages, hours, and other terms and conditions of employment within the scope of arbitration to an impartial and experienced neutral person or panel for final and binding determination, provided however that the charter amendment is not subsequently repealed or amended in a form that would no longer require the submission of all unresolved disputes relating to wages, hours, and other terms and conditions of employment within the scope of arbitration to an impartial and experienced neutral person or panel, for final and binding determination.

(b) Unless otherwise agreed to by the parties, the costs of the arbitration proceeding and the expenses of the arbitration panel, except those of the employer representative, shall be borne by the employee organization.

SEC. 3. (a) The Legislature finds and declares all of the following:



(1) Existing law declares that local government boards, councils, and other public agencies exist to aid in the conduct of the people's business and that their actions in the conduct of that business be taken openly and their deliberation on matters effecting that business be conducted openly.

(2) Existing law declares that the people in delegating authority to local government boards, councils, and other public agencies, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know, and existing law also declares that the people insist the local government actions be taken openly and deliberations of local government be conducted openly.

(3) Existing law authorizes local government to provide for the compensation of its employees. The people have an interest in how local government boards, councils, and other public agencies implement that authority.

(b) It is the intent of the Legislature in enacting this act to do all of the following:

(1) Ensure that where representatives of local government employers and firefighters or law enforcement officer employees have exhausted their mutual efforts to reach agreement over compensation issues, the people are informed of how local government boards, councils, and other public agency employers use that authority given them by law to resolve the dispute and relieve the impasse.

(2) Establish procedures by which notice of the impasse will come before local government boards, councils, and other public agencies in an open and public manner and to establish procedures whereby those boards, councils, and other public agencies will be required to deliberate openly alternative actions designed to resolve the dispute and relieve the impasse.

(3) Further, the public interest in open government by requiring local government boards, councils, and other public agencies, which are employers of firefighters and law enforcement officers, to conduct an open proceeding at which they may choose to adopt procedures to resolve the dispute and relieve the impasse and to debate and deliberate publicly alternatives available to them.

(4) Make Title 9.5 (commencing with Section 1299) of Part 3 of the Code of Civil Procedure consistent with the decision of the California Supreme Court in *County of Riverside v. Superior Court* (2003) 30 Cal.4th 278.

